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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

ROY L. MORRISON,  
  
 Plaintiff,  
  
 v.  
 ALBERTO GONZALES, Attorney General  
 of the United States Department of Justice,  
  
 Defendant.

No. C 05-04351 JSW

**DEFENDANT'S UNOPPOSED  
 ADMINISTRATIVE MOTION TO  
 REFILE CORRECTED DIGNAM  
 DECLARATION UNDER SEAL;  
~~PROPOSED~~ ORDER GRANTING REQUEST IN PART  
 Local Rules 7-11 and 79-5**

Before: Hon. Jeffrey S. White

**I.**

On March 3, 2007, Defendant filed the declaration of John T. Dignam. The document was not filed under seal and did not have attached the two public documents that were referenced in the declaration as exhibits. The document contains information that should remain confidential and should have attached to it the exhibits. Accordingly, defendant respectfully requests that pursuant to Local Rule 79-5(b), the document filed March 3, 2007 be stricken from the record and that it be replaced with the document submitted herewith under seal.

**II.**

The declaration of John T. Dignam was file March 3, 2007. The document contains evidence regarding the facts developed during the course of several investigations by the Bureau

1 of Prisons Office of Internal Affairs. Specifically, the document identifies witnesses who were  
 2 questioned and came forward in the numerous investigations conducted into plaintiff's conduct.

3 The statements should not be unnecessarily disclosed to the public. In accordance with  
 4 the Bureau of Prisons' Program Statement 1210.24 part 12, the contents of reports should remain  
 5 "safeguarded from loss or unauthorized disclosure." In addition, disclosure of witness statements  
 6 may raise concerns under 5 U.S.C. § 552a(b)(1) (the "Privacy Act"). *See generally, Roberts v.*  
 7 *U.S. Dept. of Justice*, 366 F. Supp. 2d 13, 24 (D.D.C., 2005). For these reasons, the statements in  
 8 the facts established in the Dignam declaration should not remain in the public record.

9 Additionally, the Dignam Declaration references two documents that inadvertently were  
 10 not attached to the document at the time it was filed. The documents both are program  
 11 statements that appear on the Bureau of Prisons website. Both program statements are a matter  
 12 of public record and this court properly can take judicial notice of them. *See* F.R.E. 201(b) (A  
 13 judicially noticed fact must be one not subject to reasonable dispute in that it is either (1)  
 14 generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and  
 15 ready determination by resort to sources whose accuracy cannot reasonably be questioned). For  
 16 ease of reference, defendant requests that the declaration of John T. Dignam be corrected so as to  
 17 include the program statements that should have been attached.

### 18 III.

19 The undersigned counsel has informed plaintiff's counsel that this administrative motion  
 20 would be filed. Plaintiff's counsel has affirmed that plaintiff has no objection to sealing the  
 21 document nor to including the program statements in the corrected copy of the declaration.  
 22 Accordingly, defendant respectfully requests that the Court permit these administrative changes  
 23 pursuant to Local Rules 7-11 and 79-5.

24 Respectfully submitted,

25 SCOTT N. SCHOOLS  
 26 United States Attorney

27 Dated: April 12, 2007

28 /s/  
 ABRAHAM A. SIMMONS  
 Assistant United States Attorney

~~PROPOSED~~ ORDER

It is so **ORDERED**. The Declaration of John T. Dignam filed March 3, 2007 is stricken from the public record and shall be replaced with the corrected document which shall be filed under seal. Defendant, however, must file a redacted version of the declaration as set forth below.

Date: April 12, 2007

  
United States District Judge

Defendant shall be permitted to redact paragraphs 10-12 of the Dignam declaration from the public version to be refiled. If the parties believe that additional paragraphs require filing under seal or if the exhibits referenced need to be filed under seal, they must submit a further administrative motion demonstrating good cause for sealing those portions of the declaration.